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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,714	10/09/2001	Helena B. Halverson	Halveron-Cost	8199
27119	7590	06/07/2004	EXAMINER	
ALBERT W. WATKINS 30844 NE 1ST AVENUE ST. JOSEPH, MN 56374			HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	13

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/974,714

Applicant(s)

HALVERSON, HELENA B.

Examiner

Alissa L. Hoey

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. In view of the appeal brief filed on 11/24/03, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Specification***

2. The abstract of the disclosure is objected to because is more than 150 words. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Calvert Affidavit.

The Calvert Affidavit teaches the method of claims 21 and 22 of using a food service uniform in combination with a dining event to enrich the dining event and provide additional stimulation to at least one diner. Further, Calvert Affidavit teaches collecting food and atmosphere preferences of at least one diner, comparing the data with a model and selecting a theme for the dining event responsive to the comparing. Selecting at least one appearance for a food server during the dining event responsive to the theme. Finally, Calvert Affidavit teaches assembling a food service uniform to present the selected at least one appearance from a base costume and a plurality of removable attachments (see affidavit).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Calvert Affidavit in view of Gould (US 5,621,951).

Calvert Affidavit teaches a method as described above in claims 21 and 22. However, Calvert Affidavit fails to teach adhering a collar attachment to a neck portion of the food service uniform and affixing a button cover to a front surface of the food service uniform.

It would have been obvious that to have adhered a collar attached to the neck portion of the food service uniform of the Calvert Affidavit, since wing collar shirts as taught in Cavert Affidavit (see item #11 in Affidavit), are well known in the apparel arts to include a fastener that receives a folded down collar portion as desired based upon end use of the uniform.

Gould provides a button cover to cover buttons on a shirt (figures 1-8, column 1, lines 33-51).

It would have been obvious to have provided the wing collar shirt of the Calvert Affidavit with buttons down it's front opening to be covered with the button covers of Gould, since the button covers located on the shirt of Calvert Affidavit, provides a cover for concealing buttons providing even greater adaptability to make the shirt not look like a button down shirt.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freedman (US 2,688,136) in view of Huston et al. (US 5,809,576).

Freedman provides a top having a neck portion in an upper central part of the top and two arm passages oppositely located from each other on a first and second edges of the top (figures 1, identifiers 30, 32 and 34). Front fasteners arranged along a vertical midline beneath the neck portion on a front of the top (figure 1, identifiers 24 and 26). Attachments for fastening the front fasteners and the back fastener for simulating a varying appearance and a back fastener on the back of the top opposite the front (figures 4-10, identifiers 80, 38, 16 and 18). However, Freedman fails to teach a pocket adjacent the fasteners.

Huston et al. provides a pocket that is attachable to shirts at any location as desired by the user to hold/store items not in use (column 1, lines 59-67 through column 2, lines 1-2).

It would have been obvious that the attachments for fastening the front and back fastener for a varying appearance can be based upon patron preference, since nothing prevents the appearance from being determined by patron preferences. Further, it would have been obvious that the shirt of Freedman can be worn as a service uniform, since nothing prevents it from being worn during service as a uniform.

Additionally, it would have been obvious to have provide the shirt having attachments of Freedman with the attachable pocket of Huston et al., since the shirt of Freedman provided with an attachable pocket allows the user to have a pocket that can be secured to any location on the shirt including next to the front fasteners to hold/store items when not needed by the wearer.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smith, Marer, Abbott, Goldman, Moriariyt et al., Blauer et al., Wong, Kuo, Puco et al., Richards, Wu, Lisciandro et al. and Perez et al. are all cited to show closely related garments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (703) 308-6094. The examiner can normally be reached on M-F (8:00-5:30)Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

alh



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